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Message Text

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PAGE 01 ABU DH 00392 090621Z
ACTION NEA-10

INFO OCT-01 EUR-12 EB-08 ISO-00 STR-04 /035 W
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FM AMEMBASSY ABU DHABI
TO SECSTATE WASHDC 5591
INFO USDOC WASHDC
AMEMBASSY ATHENS

UNCLAS ABU DHABI 0392

ATHENS FOR RTDO

E.O. 11652: NA
TAGS: BGEN, TC
SUBJ: NEW LAWS MODIFY ABU DHABI TENDERING RULES

SUMMARY: NEW LAWS INCREASE ROLE OF PUBLIC TENDERING FOR ABU DHABI PURCHASES. PRACTICAL APPLICATION OF LAWS REMAINS TO BE SEEN. END SUMMARY.

1. EMBASSY BELIEVES ARTICLE REPORTING CHANGES IN ABU DHABI TENDER SYSTEM WHICH APPEARED IN JANUARY 28, 1977 ISSUE OF MIDDLE EAST ECONOMIC DIGEST REQUIRES SOME CLARIFICATION. ARTICLE READS, QUOTE:

ALL GOVERNMENT PURCHASES AND CONTRACTS IN ABU DHABI MUST NOW BE PUT TO PUBLIC TENDER AND MADE THROUGH THE PURCHASES DEPARTMENT, ACCORDING TO A LAW PASSED BY THE ABU DHABI EXECUTIVE COUNCIL ON 16 JANUARY.

THE LAW ALSO SAYS THAT IF THERE IS ONLY ONE TENDER FOR A CONTRACT, BIDS MUST BE TAINVITED, ALTHOUGH THE TENDERER MAY HAVE BEEN FULLY QUALIFIED. IN FUTURE ALL TENDERERS WILL BE CLASSIFIED ACCORDING TO FINANCIAL AND TECHNICAL CAPACITIES. UNQUOTE.

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2. JANUARY 16TH LAW REFERRED TO IN ARTICLE APPLIES ONLY TO DIRECT PURCHASES OF GOVERNMENT SUPPLIES (OFFICE SUPPLIES, AUTOMOBILES, ETC.) NOT, REPEAT NOT, TO DEVELOPMENT PROJECTS HANDLED BY GENERAL PROJECTS COMMITTEE (HIGHWAYS, HOSPITALS, AIRPORTS, ETC.). NEW LAW PROVIDES THAT:
A) ABU DHABI PURCHASING DEPT. WILL NO LONGER DO PURCHAS-

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FOR FEDERAL MINISTERIES.
B) ABU FQAABI PURCHASING DEPT. WILL DO ALL THE PURCHASING FOR ABU DHABI GOV'T. DEPTS. (EXCEPT POLICE AND INTELLIGENCE DEPTS. WHICH DO THEIR OWN PURCHASING)
C) THE STORAGE AND DISPENSING OF SUPPLIES AND THE DISPOSAL OF DAMAGED SUPPLIES WILL BE ACCOMPLISHED ACCORDING TO SPECIFIED PROCEDURES.
D) IF ONLY ONE BID ON A SUPPLY CONTRACT IS RECEIVED, THE PURCHASING DEPT. (OR FEDERAL MINISTRY DOING PURCHASING DIRECTLY) MAY REJECT BID AND SOLICIT NEW TENDERS. HOWEVER, ACCORDING TO CHIEF FOREIGN PURCHASING OFFICER AT ABU DHABI PURCHASING DEPT., THIS IS NOT MANDATORY, I.E. A SINGLE OFFER MAY BE ACCEPTED IF IT IS DEEMED TO BE "REASONABLE".

3. PROBLEM ARISES WHEN A BRANDED ITEM FOR WHICH THERE IS A LOCAL EXCLUSIVE AGENT IS SPECIFIED IN TENDER DOCUMENTS. IN SUCH INSTANCES ALL BIDDERS ARE ELIMINATED EXCEPT THE LOCAL EXCLUSIVE AGENT BECAUSE ABU DHABI'S AGENCY LAW REQUIRES THAT BIDS BE MADE ONLY THROUGH LOCAL AGENTS. FACT THAT MANY LOCAL BUSINESSMEN HAD BEEN SOAKING GOVERNMENT WHENEVER A TENDER FOR THEIR EXCLUSIVE BRANDED ITEMS GAVE THEM CHANCE TO DO SO HAD LED PURCHASING DEPT. TO IGNORE LOCAL AGENCY LAW AND ACCEPT BIDS FROM PRACTICALLY ANYBODY. ACCORDING O ABU DHABI CHAMBER OF COMMERCE (WHICH ENFORCES THE AGENCY LAW), THIS PRACTICE HAD IN TURN LED TO SMUGGLING AND NUMEROUS BITTER COMPLAINTS FROM LOCAL EXCLUSIVE AGENTS. ONE CHAMBER OF COMMERCE OFFICIAL SAID THIS HAD HAPPENED FREQUENTLY IN THE SUPPLY
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OF BRANDED PHARMACEUTICALS. (AND WHEN INTERVIEWED BY EMBOFF, CHIEF FOREIGN PURCHASING OFFICER AT ABU DHABI PURCHASING DEPT. SEEMED HIGHLY RELIEVED THAT PHARMACEUTICALS PURCHASING HAD PASSED TO MINISTRY OF HEALTH WITH ENACTMENT OF NEW LAW.)

4. COMMENT: IT REQURES MORE THAN MENTAL GYMNASTICS TO OPRECONCILE ONE LAW WHICH PRIVIDES THAT BID CAN ONLY FROM ONE SOURCE (AN EXCLUSIVE AGENT) AND ANOTHER WHICH PROVIDES THAT A SOLITARY BID CANNOT BE ENTERTAINED. OBVIOUSLY SOMETHING HAS TO GIVE, AND SO LONG AS THE GOVERNMENT FEELS THAT LOCAL AGENTS ARE TAKING ADVANTAGE WE ARE CONFIDENT IT IS GOING TO CONTINUE TO BE THE AGENCY LAW. END COMMENT

5. DETAILS OF A SECOND NEW ABU DHABI LAW COVERING TENDERING OF MAJOR PROJECTS ARE NOT YET AVAILABLE TO EMBASSY (EXPECTED IN THREE WEEKS), HOWEVER, OFFICIAL AT ABU DHABI PLANNING DEPARTMENT HAS INFORMED US THAT WHEN

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ONLY SINGLE BID IS RECEIVED FOR A PROJECT, GENERAL PRO-
JECTS COMMITTEE MUST ANNOUNCE BIDDING EXTENSION IN
ATTEMPT TO ATTRACT ADDITIONAL OFFERS. IF NO ADDITIONAL
OFFERS ARE RECEIVED BY SECOND CLOSING DATE COMMITTEE CAN
ACCEPT SOLITARY TENDER PROVIDED ONLY THAT CONSULTANT'S
ESTIMATE SHOWS TENDER TO BE "REASONABLE".
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